

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION

United States of America,)	CR. NO. 0:07-1149 (CMC)
)	
v.)	OPINION and ORDER
)	
Timothy Wayne Eddington,)	
)	
Defendant.)	
)	

This matter is before the court on Defendant's motions to correct sentence under 28 U.S.C. § 2255, arguing that in light of the Supreme Court's holdings in *Johnson v. United States*, 576 U.S. __, 135 S. Ct. 2551 (2015) and *United States v. Davis*, __ U.S. __, 139 S. Ct. 2319 (2019), Defendant's §924(c) conviction should be vacated and he should be resentenced.¹ ECF Nos. 425, 441, 453. The Government originally filed a Motion to Dismiss and Response in opposition, prior to the *Davis* decision. ECF No. 447. However, after *Davis*, Defendant filed a supplement requesting expedited review and resentencing after vacating his § 924(c) conviction. ECF No. 461. The Government filed a reply, requesting the court grant Defendant's motion and schedule a full resentencing. ECF No. 464.²

The court **grants** the motion for relief under 28 U.S.C. § 2255. Defendant's conviction under § 924(c) contained in the Judgment Order as to Timothy Wayne Eddington in CR 0:07-1149 filed July 31, 2008 (Count 4), is hereby **vacated**, and the sentence imposed that date is vacated in

¹ Defendant originally filed his § 2255 motion *pro se* (ECF No. 425), and the Federal Public Defender thereafter entered the case and filed a supplemental motion (ECF No. 441). Defendant later filed a *pro se* amended motion to vacate. ECF No. 453.

² Defendant also filed two *pro se* motions requesting a ruling on his § 2255 motion. ECF Nos. 455, 458. Those motions are denied as moot.

its entirety. This matter is set for resentencing on **Wednesday, October 16, 2019, at 2:30 p.m.**

The Government's motion to dismiss (ECF No. 447) is moot.

IT IS SO ORDERED.

s/Cameron McGowan Currie

CAMERON MCGOWAN CURRIE

Senior United States District Judge

Columbia, South Carolina

July 18, 2019